

FREDERICK COUNTY BOARD OF APPEALS
STAFF REPORT

Case Number: B-14-24

Hearing Date: September 25, 2014

Applicants: Debra DeWitt Brunink
c/o Rand D. Weinberg, Esq
4940 Mussetter Road
Ijamsville, MD 217541

Appeal: Requesting a Special Exception to use a
Historic Structure or Site for establishing a
Facility for Functions.

Location: Located on the west side of Mussetter Road
(4940 Mussetter Road, Tax ID# 09-314377,
Tax Map 88, Parcel 186, Farm Lot 1, 30.74
acres)

Planning Region: New Market

Zoning District: Agricultural (AG)

Comp. Plan Designation: Agricultural / Rural

Applicable Ordinances: Sec. 1-19-3.210 SPECIAL EXCEPTIONS
Sec. 1-19-8.600 HISTORIC STRUCTURES
OR SITES
Sec. 1-19-11.100 DEFINITIONS

Background:

The subject parcel is zoned Agricultural and contains 30.74 acres. It is currently used for hay farming and has a 3400 square foot historic Greek Revival Manor that was constructed in the 1850's and is uniquely constructed of recycled railroad stringers. The property also included seven outbuildings that were destroyed in a 2009 tornado, including a historic bank barn, silo, creamery, dairy, machine shed, hen house, and springhouse. The springhouse and hen house have since been rebuilt.

Proposal:

The Applicant is proposing to establish a Facility for Functions as per Ordinance Section 1-19-8.600. The Applicant has received a Determination of Eligibility for listing the property on the Frederick County Register of Historic Places (DOE#14-01). Intended uses include traditional celebratory gatherings, banquets and related gatherings.

The Applicant plans to initially operate as an outdoor tented facility incorporating the old bank barn foundation. Later, profits will be used to rebuild the bank barn as a permanent, year-round facility, as well as reconstructing other structures on the property that were destroyed by a tornado in 2009.

Staff notes that the Frederick County nighttime Noise Ordinance levels begin at 10pm, and would suggest that outdoor music and entertainment begin to be cut-off around 9pm to meet the 65dBA requirement. Staff requests that the Applicant provide information on: (1) the specific type of events, and (2) the number of guests that will be attending these events.

General Criteria – Special Exception:

Under the provisions of Section 1-19-3.210 of the County Zoning Ordinance:

- (A) An application for a special exception may be made only by persons with a financial, contractual or proprietary interest in the property for which a special exception is requested.
- (B) A grant of a special exception is basically a matter of development policy, rather than an appeal based on administrative error or on hardship in a particular case. The Board of Appeals should consider the relation of the proposed use to the existing and future development patterns. A special exception shall be granted when the Board finds that:
 - (1) The proposed use is consistent with the purpose and intent of the Comprehensive Development Plan and of this chapter; and
 - (2) The nature and intensity of the operations involved in or conducted in connection with it and the size of the site in relation to it are such that the proposed use will be in harmony with the appropriate and orderly development of the neighborhood in which it is located; and
 - (3) Operations in connection with the special exception at the proposed location shall not have an adverse effect such as noise, fumes, vibration or other characteristics on neighboring properties above and beyond those inherently associated with the special exception at any other location within the zoning district; and
 - (4) Parking areas will comply with the off street parking regulations of this chapter and will be screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.
 - (5) The road system providing access to the proposed use is adequate to serve the site for the intended use.

Specific Criteria – Section 1-19-8.600 Historic Structures and Sites:

The Board of Appeals may grant a special exception in any zoning district, for the conversion of an existing historic structure or site into a restaurant, inn, antique shop, museum, information center, business or professional office, group home use, or a facility for functions such as seminars, festivals, cultural or social events, or other similar activities of historic interest, provided that off-street parking requirements of this chapter are met. Such conversion shall not result in any substantial external alteration of the appearance of the historic structure or site. Historic structure or site as used in this section only means a structure or site listed on or eligible for the National Register of Historic Places, the Maryland Register of Historic Places or the Frederick County Register of Historic Places. All requests for special exception under this section shall be referred to the Frederick County Historic Preservation Commission for determination of eligibility for placement on the Frederick County Register of Historic Places, and for review and comment. Before the special exception can take effect, the historic structure or site must be listed on the Frederick County Register of Historic Places.

Action Required:

Staff requests that the Board review the general and specific criteria for Special Exception under Section 1-19-3.210 (*Special Exceptions*) and Section 1-19-8.600 (*Historic Structures or Sites*) and render a decision on the applicant's requests.